

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JEANNE HERCHENBACH)
)
)
Plaintiff,)
)
v.) Case No.
)
)
LTF CLUB OPERATIONS)
COMPANY, INC., a Foreign Corporation)
d/b/a LIFE TIME FITNESS)
)
Defendant.)

NOTICE OF REMOVAL

To: The United States District Court For the Northern District of Illinois

Plaintiff: Tomas Cabrera
 Morici, Figlioli & Associates
 150 North Michigan Ave.
 Suite 1100
 Chicago, Illinois 60601

Pursuant to 28 U.S.C. §§1441 and 1446, Defendant, LTF CLUB OPERATIONS COMPANY, INC. d/b/a LIFE TIME FITNESS, by and through its attorneys, CREMER, SPINA, SHAUGHNESSY, JANSEN & SIEGERT, LLC, hereby files this *Notice of Removal* of the above-captioned matter from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois, and in support thereof states as follows:

THE REMOVED CASE

1. On April 15, 2016, Plaintiff Jeanne Herchenbach filed a *Complaint at Law* with the Circuit Court of Cook County, Illinois captioned Jeanne Herchenbach v. LTF Club Operations Company, Inc., a Foreign Corporation d/b/a Life Time Fitness, Case Number 16 L 003847. A copy of Plaintiff's Complaint at Law is attached hereto and made a part hereof as **Exhibit A**.

2. On April 22, 2016, Defendant LTF Club Operations Company, Inc. d/b/a Life Time Fitness was served with the Summons and Complaint at Law. Copies of the Summons and the affidavit of service are attached hereto and made a part hereof as **Exhibit B**.

3. Plaintiff's *Complaint at Law* sounds in "premise liability" against Defendant LTF Club Operations Company, Inc. d/b/a Life Time Fitness. The Complaint at Law allegedly arises out of personal injuries sustained on November 22, 2015 in an accident that allegedly occurred at the premises located at 1601 Burr Ridge Parkway, City of Burr Ridge, Illinois. (**See Exhibit A**)

PAPERS FROM REMOVED ACTION

4. As required by 28 U.S.C. §1446(a), attached as **Exhibits A and B** are copies of all process, pleadings, and orders served upon the Defendant in the removed case.

THE VENUE REQUIREMENT IS MET

5. Venue of this removal is proper under 28 U.S.C. §1441(a) because this Court is the United States District Court for the district corresponding to the place where the state-court action was pending.

THE REMOVAL IS TIMELY

6. The removal is timely under 28 U.S.C. §1446(b) because the removing defendant has filed it within 30 days of receiving the initial pleading in the state-court action. Plaintiff served the Summons and Complaint at Law on LTF Club Operations Company, Inc. d/b/a Life Time Fitness on April 22, 2016. (**Exhibit B**).

FILING OF REMOVAL PAPERS

7. Pursuant to 28 U.S.C. §1446(d), written notice of the removal of this action has been given simultaneously to Plaintiff, and a Notice of Filing of Notice of Removal is simultaneously being filed in the Circuit Court of the Cook County, Illinois. A true and correct copy of this notice is attached hereto as **Exhibit C**.

THIS COURT HAS ORIGINAL JURISDICTION OVER THE MATTER UNDER 28 U.S.C. §1332 (DIVERSITY JURISDICTION)

8. This is a civil action that properly falls under the Court's original jurisdiction under 28 U.S.C. §1332 (diversity of citizenship) and is one that may be removed under 28 U.S.C. §1441. There is a complete diversity of citizenship among the parties. Upon information and belief, Plaintiff is a citizen of Illinois. Defendant LTF Club Operations Company, Inc. d/b/a Life Time Fitness, is a corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, with its headquarters in Chanhassen, Minnesota.

9. The amount in controversy in this action exceeds the sum of \$75,000 exclusive of interest and costs. Plaintiff's Complaint at Law prays for damages in excess of \$50,000. Plaintiff's Complaint at Law alleges she has sustained "severe and permanent injuries, and was, and will be hindered and prevented from attending to her usual duties and affairs of life, and have lost, and will lose, the value of that time as aforementioned." Further, the Plaintiff alleges she "suffered great pain and anguish, both in mind and body, and will in the future, continue to suffer." Plaintiff also alleges that she "further expended and became liable for, and will expend and become liable for, large sums of money for medical care and services endeavoring to become healed and cured of said injuries." Where a complaint does not specifically state that \$75,000 is

the amount in controversy, such an amount can be inferred from a “common sense” reading of the complaint. *McCoy v. General Motors Corp.*, 226 F. Supp.2d 939, 942 (N.D. Ill. 2002). Accordingly, it is believed Plaintiff is claiming damages in excess of \$75,000 exclusive of interest and costs.

10. That by filing this Notice of Removal, Defendant, Defendant LTF Club Operations Company, Inc. d/b/a Life Time Fitness, does not waive any jurisdictional objections or any other available defenses.

WHEREFORE, Defendant, LTF CLUB OPERATIONS COMPANY, INC. d/b/a LIFE TIME FITNESS respectfully requests that this civil action be removed from the Circuit Court of Cook County, Illinois and accept jurisdiction over this action, and henceforth, that this action be placed on the docket of this Court for further proceedings, as though this action had originally been instituted in this Court.

Respectfully submitted,

/s/Brian P. Shaughnessy
One of the Attorneys for Defendant,
LTF CLUB OPERATIONS COMPANY, INC.
d/b/a LIFE TIME FITNESS

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 17, 2016, the foregoing Notice of Removal and accompanying documents were electronically filed with the Clerk of the Court using the CM/ECF system, and the documents identified herein were mailed to:

Tomas Cabrera
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150 North Michigan Ave.
Suite 1100
Chicago, Illinois 60601

/s/Brian P. Shaughnessy _____